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IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench

C.R. No. 172 /2003 S.B.

CIVIL REVISION U/S 115 C.P.C. VALUED RS. 31788/- L.A. AWARD.

APPLICANTS : LRS OF DECEASED APPLICANTS

1. Smt. Prasanna Kumari w/o Late Shri Ramkumar Agrawal aged about 55 years.
2. Ravindra s/o Late Shri Ram Kumar Agrawal, aged about 40 years
3. Arvind s/o Late Shri Ram Kumar Agrawal, aged about 36 years.
4. Smt. Renu A grawal w/o Ram Kamal Agrawal, aged about 38 years.

All R/o Sikchhak Nagar (Teachers Colony) (Opp. Garden), Durg Distt. Durg

P. R. No. 3957/03
Presented by Shri Binjya Kant Thakur
dated 22.04.03

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CLERK TO A.G. BILASPUR

Vs.

NON-APPLICANT : R.S. State of Chhattisgarh Through Collector, Durg

CIVIL REVISION UNDER SECTION 115 CODE OF CIVIL PROCEDURE 1976, (AMENDED ACT 2002).

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश पत्रक

मामला क्रमांक C.R. 172 सन् 2003

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	7-12-2004 Shri Yashwant Tiwari with Shri Amiyakant Tiwari, counsel for the petitioners. Shri J.D. Bajpai, Govt. Advocate for the State. Heard. A portion of land out of the land owned by late Ramkumar Agrawal comprising Khasra No.255/11 was acquired by the State for the purpose of widening the road. The Land Acquisition Officer after completing the formalities, passed an award on 26-9-1989 in Land Acquisition Case No.20-A/82 of 86-87 and fixed the compensation of Rs.31,787.65/-. Late Ramkumar Agrawal being dissatisfied with the compensation fixed, filed an application under Section 18 of the Land Acquisition Act requesting the Land Acquisition Officer to refer the matter to the Civil Court contending that he must be paid more compensation. The reference was taken on the file by the 2nd Additional District Judge, Durg, subsequently said Ramkumar Agrawal died on 6-12-1996 and the present petitioners came on record as Legal Representatives. By an order dated 17-2-2003 the said reference Court closed the reference on the ground that the claimants even after several years have not taken steps to let in evidence to substantiate their	

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आदेश पत्रक

मामला क्रमांक C.R. 172 सन् 2003

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 2 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

case. Being aggrieved by the said order of the 2nd Additional District Judge, Durg, the present revision petition has been filed.

Learned counsel appearing for the petitioners made twofold submission namely that the observation of the reference Court that the claimants failed to take steps to examine the witnesses is patently wrong which is evident from the documents available before the Court. Secondly, even assuming that the land owners failed to let in oral and documentary evidence to substantiate their case, this being a reference, the reference Court cannot pass the impugned order which in effect is a dismissal order for not prosecuting the matter by letting in oral and documentary evidence. Learned counsel further submits that the Court should have considered the reference with the materials available on record. In support of his contention, learned counsel placed reliance on a ruling reported in 2002 AIR SCW 356 in the case of Khazan Singh V. Union of India.

Of-course, learned counsel for the State would contend that the burden is solely on the petitioners/landlords to satisfy the Court that the compensation fixed by the Land Acquisition Officer is low and as they have not let in oral and documentary evidence to discharge the said burden, the reference Court is perfectly right in dismissing the reference.

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —3—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

This Court perused the judgment of the Hon'ble Supreme Court reported in 2002 AIR SCW 356 (Supra) and this Court is of the view that the decision of that case would squarely apply for the facts of the present case. In para-7 of the said judgment the Court has ruled as under:-

> "The provisions above subsumed would thus make it clear that the Civil Court has to pass an award in answer to the reference made by the Collector under S.18 of the Act. If any party to whom notice has been served by the Civil Court did not participate in the inquiry it would only be at his risk because an award would be passed perhaps to the detriment of the concerned party. But non-participation of any party would not confer jurisdiction on the Civil Court to dismiss the reference for default."

That being the settled legal position, this Court has to set-aside the order passed by the reference Court dated 17-2-2003 and direct the said reference Court to dispose of the reference in accordance with law. Accordingly, there will be an order to that effect. Needless to mention that the reference Court is duty bound to permit the parties to let in oral and documentary evidence. The reference Court is directed to dispose of the matter within a period of 6 months from the date of receipt of copy of this order. Both the

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.....विरुद्ध.....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 4 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
Subbu	parties shall fully co-operate with the reference Court to comply with the above directions. With the directions aforesaid, the revision stands disposed of. Parties are entitled for certified copy of this order Sd/- Chief Justice	